

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ANDREY APONTE,

Plaintiff,

v.

DR. DALIA SULIENE, *et al.*,

Defendants.

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ORDER

14-cv-132-jdp

Andrey Aponte, a prisoner incarcerated at the Columbia Correctional Institution, is proceeding on multiple Eighth Amendment deliberate indifference claims and state-law medical malpractice claims based on his allegations that prison officials failed to give him proper medical treatment and failed to restrict him from working following abdominal surgery. On September 11, 2014, I entered an order addressing defendant Glen Heinzl's motion to stay the proceedings pending mediation under Wis. Stat. § 655.455. Dkt. 41. Although I denied Heinzl's motion to stay the case, I noted that the case would have to remain in a holding pattern until plaintiff made a choice about whether to pursue mediation as required under state law, or have his malpractice claim against Heinzl dismissed. Plaintiff has responded by stating that he is pursuing mediation. A follow-up from Heinzl indicates that mediation is set for May 2015. I will direct the clerk of court to set a date for the preliminary pretrial conference in this case for some time after May 2015. The parties should update the court after mediation takes place or if the date is shifted.

Turning to another matter in the September 11 order, I granted defendants' motion to substitute then-defendant Noah Spring with Dr. Fern Springs and said that "If DOJ does not accept service, then I will direct the Marshal to accomplish service" on Dr. Springs. The state has not informed the court one way or another whether it will accept service on behalf of Dr.

Springs. I will give the state a short time to do so and then to file an answer on her behalf if the DOJ will be representing her.

ORDER

It is ORDERED that

- (1) The clerk of court is directed to set a date for a telephonic preliminary pretrial conference in this case.
- (2) The Wisconsin Department of Justice may have until May 4, 2015 to respond to this order, explaining whether it will be accepting service on behalf of defendant Dr. Fern Springs and to submit an answer on her behalf if it is representing her.

Entered this 13th day of April, 2015.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge